

PROPOSED AMENDMENTS TO SEATTLE ANIMAL CONTROL CODE
Presented to Councilmember Jan Drago by the Animal Control Code Review Panel
February 27, 2003

#	SMC CITATION	TEXT	VOTE
1.	SMC 9.25.020.G Definitions – A-E	G."Dangerous animal" means any animal that according to the records of the appropriate authority, (1) has inflicted severe injury on a human being without provocation on public or private property, (2) has killed a domestic animal without provocation while off the owner's property, or (3) <ins>(2) has been previously found to be Level 3 potentially dangerous,</ins> whose owner has received notice of such, which animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals. <u>Dangerous animals shall be sub-classified as either a Level 4 Dangerous Animal or a Level 5 Dangerous Animal based on the animal's behavior that led to the Dangerous designation. A Level 5 Dangerous Animal is an animal that has severely mauled or killed a human being. A Level 4 Dangerous Animal is any dangerous animal other than Level 5. A dog found to be Level 5 Dangerous animal shall be immediately euthanized.)</u>	8-0
2.	SMC 9.25.021.M Definitions – F - J	M ... "Exotic animal" also includes all venomous reptiles and amphibians, (regardless of whether the venom glands have been removed), and all snakes that are eight (8) feet or more in length. An animal that is normally domesticated, but that is determined to be wild or feral, shall be considered an exotic animal.	8-0
3.	SMC 9.25.022 Definitions K – O	A. <u>"Less than severe injury" or "bodily injury" or "physical injury" means significant: (1.) Physical pain and demonstrable injury; or (2.) An impairment of physical condition.</u> B. "Owner" means a person who harbors, keeps, causes or permits an animal to be harbored or kept, or who has an animal in his/her possession or custody, or who permits an animal to remain on or about his/her premises, or who has legal title to an animal.	7-1
4.	SMC 9.25.023.A Definitions P – T	A."Permit" means human conduct in relation to an owned animal, which is intentional, deliberate, careless, inadvertent or negligent.	8-0
5.	SMC 9.25.023.C	C. "Potentially dangerous animal" means any animal that when unprovoked: (1) inflicts bites on a human resulting in less than severe injury, either on public or private property, or inflicts bites on a domestic animal either on public or private property, but off the property of the owner or keeper of the animal; or (2) when unprovoked on two separate occasions within the prior thirty-six month period, chases or approaches a person on public property or on private property (other than that of the animal's owner) in a menacing fashion or apparent attitude of attack in such a manner that requires a defensive action by any person to prevent bodily injury; or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals. <u>Potentially Dangerous animals shall be sub-classified as Level 1 Potentially Dangerous, Level 2 Potentially Dangerous or Level 3 Potentially Dangerous, based on the animal's behavior that led to the designation.</u> <u>Level 1 Potentially Dangerous animal is potentially dangerous animal that has not bitten a domestic animal or human being. Level 2 Potentially Dangerous animal is a potentially dangerous animal that has caused less than severe injury to a domestic animal, but has not bitten a human being. Level 3 Potentially Dangerous animal is a potentially dangerous animal that has inflicted less than severe injury to a human being, or that has caused severe injury to, or killed, a domestic animal.</u> <u>Neither barking nor growling, nor both, shall alone constitute grounds upon which to find an animal potentially dangerous. The breed of a dog shall not be evidence of whether an animal is potentially dangerous or dangerous.</u>	4-1 2 abstentions 7-0 8-0
6.	SMC 9.25.023.D	<u>D. "Provocation" shall include any of the following:</u> <u>(1) any action done while the animal was protecting or defending a person or pack member within the immediate vicinity of the animal from an apparent attack or assault, except where the person in control of the animal was engaged in illegal activity at the time of the incident;</u> <u>(2) committing a crime or offense upon the property of the owner, or custodian, of the animal;</u> <u>(3) teasing, tormenting, abusing or assaulting the animal, at the time of the incident, or at any time prior;</u> <u>(4) attack or menacing by a domestic animal, or any situation where an animal was on the property of the owner of the animal;</u> <u>(5) any action that leads to a response when the animal was responding to pain or injury, or protecting itself, its kennels or its offspring, or family member;</u> <u>(6) intentionally disturbing the animal's natural functions such as sleeping or eating.</u>	Items 1 thru 5: 8-0 Item 6: 5-2

#	SMC CITATION	TEXT	VOTE
7.	SMC 9.25.023 E.	<p>7. E. "Secure animal shelter" means an animal shelter that agrees to accept an animal and that agrees to the following conditions:</p> <ol style="list-style-type: none"> 1. Not to release the animal from the shelter for the rest of the animal's natural life; 2. Not to allow the animal to come into contact with the general public for the rest of the animal's natural life; 3. Not to allow the former owner to have contact with the animal; 3. To indemnify and hold the City harmless from any and all future liability including any and all claims, demands, damages, 5. To notify the City if the shelter goes out of business or can no longer keep the animal and to abide by the City's disposition instructions. 	6-2
8.	SMC 9.25.030.A.4 Authority of the Director	<p>4. Direct immediate humane disposal of:</p> <ol style="list-style-type: none"> (a) any exotic animal when alternatives, such as placing the animal in a zoo or outside of the City, have been exhausted, (b) any animal surrendered to the City for humane disposal, (c) any animal determined by the Seattle Municipal Court or any other court of law to be a nuisance; (e) any animal involved in a court proceeding in which the owner pled guilty or was found to be guilty of owning a nuisance or dangerous animal or in which the owner pled guilty or was found to be guilty of negligent control of an animal; (d) (e) (c) any animal unclaimed after the expiration of a holding period, (f) any animal determined by the Director to be dangerous pursuant to SMC Section 9.25.035; 	9-0
09.	SMC 9.25.030 A.13	<p>13. Appoint persons experienced in the humane trapping of animals to set and bait a trap or use other devices that do not physically harm an animal trapped, when, in the judgment of the Director, such action will protect the public peace, health, safety and welfare and issue live animal trapping permits as authorized by the Director of Finance by rule. <u>No trap shall be authorized to capture cats, dogs or any other domestic animal without the applicant first identifying the trap location. Such location shall be conspicuously posted for public view at the future trap location, and approximately every 250 feet on every public road within 500 feet of the future location trap location, for a minimum of seven days prior to trapping; provided that this notice shall not be required for feral cat trap, spay-neuter and release.</u></p>	6-0
10.	SMC 9.25.030 A.17	<p>17. Detain an animal that is the subject of any violation of law <u>after a judge, justice, or hearing panel subject to judicial review determines that there is probable cause to believe the animal is a "dangerous animal",</u> or whose owner is accused of violating any law relating to that animal, and collect from the owner all costs of detainment, care, feeding, and disposition <u>subject to paragraph 12, above.</u></p>	4-0 1 abstention
11.	SMC 9.25.035 Declaration that an animal is dangerous – Disposition – Right to meeting	<p>SMC 9.25.035 Declaration that an animal is dangerous – Disposition – Right to meeting.</p> <p>A. The Director, upon the petition of any person, or at his or her own discretion, may conduct an investigation, and if the findings of the investigation so indicate, he or she may declare an animal to be dangerous. If a domestic animal is found to be dangerous, the Director shall enter an order so stating and shall direct either: (1) humane disposal of the animal; or (2) that the animal be sent at the owner's expense to a secure animal shelter. The owner is responsible for paying all fees owed to the City for the care of the animal.</p> <p>B. Before declaring an animal to be dangerous or directing the disposition of the animal, the Director shall notify the owner in writing of the reasons why the animal is believed to be dangerous, the proposed disposition of the animal, the authority for the proposed action, and that the Director will make a final determination after the expiration of twenty (20) days following service of the notice, or, if sent by certified mail, within twenty (20) days after the date of delivery as shown on the returned receipt. In addition, the notice shall inform the owner that he or she will be provided an opportunity to meet with the Director, at which meeting the owner may give, orally or in writing, any reasons or information as to why the animal should not be declared to be dangerous, or why the Director should direct that the animal be sent to a secure animal shelter instead of directing humane disposal. The notice shall state the date, time and location of the meeting, which will occur prior to the expiration of twenty (20) days following delivery of the notice. The notice shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the Director.</p> <p>C. The Director will consider directing that an animal be sent to a secure animal shelter only upon request of the owner. The owner shall bear the burden to establish that an animal shelter is available that meets the criteria for a secure animal shelter, that the shelter will accept the animal, and that the owner is willing and able to pay all expenses for transporting the animal.</p> <p>D. In the event the Director finds an animal to be dangerous and directs disposition of the animal, the declaration and directive shall be in writing in the form of an order, and shall include a recital of the authority for the action, a brief and concise statement of the facts that supports the disposition, and contain the Director's signature. A copy of the order, including notice of the right to appeal, shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner.</p>	

#	SMC CITATION	TEXT	VOTE
12.	SMC 9.25.036 Appeal of Director's Determination - Appeal.	<p>SMC 9.25.036 Appeal of Director's determination. Appeal.</p> <p>A. Availability of Appeal. An owner may appeal a determination of the Director declaring an animal to be dangerous or directing the disposition of an animal by filing a notice of appeal and written request for a hearing, with the Hearing Examiner by five (5:00) p.m. on the tenth calendar day after the date of delivery of the Director's order. A notice that an animal is to be humanely disposed of that is based either on a conviction of the animal's owner of possessing a dangerous animal or on a conviction of the animal's owner of negligent control of an animal may not be appealed under this section. The date of delivery of the Director's order shall be the date evidenced by a signed returned receipt, an affidavit of service, or three (3) days after the date of mailing as shown in a declaration of mailing. When the last day of the appeal period falls on a Saturday, Sunday, or City holiday, the period shall run until five (5:00) p.m. on the next business day.</p> <p>B. Process.</p> <p>1. An appeal shall conform to the requirements of Hearing Examiner Rule 3.01(d) in that it must be in writing, and contain the following:</p> <p> a. A brief statement as to how the owner is significantly affected by or interested in the decision of the Director;</p> <p> b. A brief statement of the owner's issues on appeal, noting owner's specific exceptions and objections to the Director's determination and Order;</p> <p> c. The relief requested, such as reversal of the Director's Order;</p> <p> d. Signature, address, and phone number of the owner, and name and address of owner's designated representative, if any.</p> <p>2. The Hearing Examiner shall summarily dismiss an appeal without hearing which the Hearing Examiner determines to be without merit on its face, frivolous, or brought merely to secure a delay.</p> <p>3. Any person beneficially interested or the Director shall only obtain judicial review of the Hearing Examiner's decision by applying for a Writ of Review in the Superior Court of Washington in and for King County in accordance with the procedure set forth in Chapter 7.16 RCW and other applicable law and local court rules within ten (10) days of the date of the decision.</p> <p>C. Standard of Review. Appeals shall be considered de novo. The owner shall have the burden of proving by a preponderance of the evidence that the Director's decision was incorrect. In the case of an order ordering the humane disposal of exotic animals or livestock under SMC 9.25.030 A4, the owner shall have the burden of proving that a reasonable alternative disposition is available. In the case of a directive of humane disposal for dangerous animals, the owner shall have the burden of proving that the Director's decision not to allow the animal to be sent to a secure animal shelter was arbitrary and capricious.</p>	
13.	SMC 9.25.037 Authority of Hearing Examiner	<p>SMC 9.25.037 Authority of Hearing Examiner.</p> <p>A. The Hearing Examiner shall conduct the review of an appeal in an expedited manner and shall make a decision thereon. The procedures of Sections 3.02.090 and 3.02.100 of this code shall apply, except that the intervals for action shall be compressed so that, unless both the owner and the Director consent, the time elapsed between the date of the notice of appeal and the Hearing Examiner's determination shall not exceed thirty (30) days.</p> <p>B. Hearing Examiner's Authority.</p> <p>1. The Hearing Examiner may affirm or reverse the Director's decision in whole or in part, or remand the decision to the Director for further consideration.</p> <p>2. The decision of the Hearing Examiner shall be final subject to judicial review in the Superior Court.</p>	

14.	SMC 9.25.038 Declaration that an Animal is Dangerous or Potentially Dangerous	<p><u>SMC 9.25.038 Declaration that an Animal is Dangerous or Potentially Dangerous</u></p> <p><u>A. (1) If the Director has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or dangerous as defined by this ordinance, a hearing shall be conducted. The Director shall prepare a petition specifying the basis as to why the animal is potentially dangerous or dangerous.</u></p> <p><u>(2) Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the Director to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.</u></p> <p><u>(3) Prior to commencement of the hearing and if the allegations of the petition indicate that the dog is potentially dangerous as defined under subsection 9.25.023(C), either party may request in writing mediation services as an alternative to a hearing. Such a request shall be granted provided both the complainant and the owner agree in writing to mediation. Mediation must be concluded within thirty days of the offer to mediate. If mediation is refused or is unsuccessful, then the matter shall be referred to a hearing under this section.</u></p> <p><u>(4) The Mayor or his designee shall designate a hearing officer from a panel of up to five persons whose membership shall be designated by the City Council. Hearing officer applicants shall have had a minimum of five years experience as a practicing attorney and prior experience in administrative, arbitration or mediation hearings. Preference shall be give to those with prior experience in care and control of animals. The hearing officer shall conduct a hearing on whether a dog shall be declared potentially dangerous or dangerous. The hearing officer shall be compensated for the actual hours devoted to the hearing and its determination at the existing hourly rate or fraction thereof allowed a magistrate for Seattle Municipal Court.</u></p> <p><u>(5)(a) The Mayor or his designee shall provide written notice to the owner of the specific behavior of the animal alleged in the petition and the date upon which a hearing will be held to consider the petition. The hearing shall be held not more than fifteen (15) days after service of notice upon the owner. The notice shall advise the owner of the consequences of a finding of potentially dangerous or dangerous and the owner's right to present evidence as to why the animal should not be declared potentially dangerous or dangerous. Service of the notice shall be made by personal service. Where the owner or address of any affected owner is unknown, notice of the hearing shall be given by posting the same in the office of the director and by publication in a newspaper of general circulation. Notice shall then be deemed given on publication of the notice.</u></p> <p><u>(5)(b) A hearing may be continued if the hearing officer deems it necessary and proper or upon a showing of good cause.</u></p> <p><u>(5)(c) The time for hearing and the hearing provisions shall be stayed if mediation services are offered pursuant to the provisions of subsection (3), above. The time for hearing and the hearing provisions of this subsection shall recommence at the date the Mayor or his designee has determined in writing that mediation has not been accepted or has been unsuccessful.</u></p> <p><u>(6) In cases where complaints from the public serve as the evidentiary basis for the director to prepare a petition, at least one of the complainants must appear and testify at the hearing or the complaint shall be dismissed.</u></p> <p><u>(7) If the owner fails to appear at the hearing, the hearing shall nevertheless proceed and an appropriate order shall be issued.</u></p> <p><u>(8) The hearing officer shall consider all relevant responsible evidence without regard to the formal rules of evidence. Evidence may also include circumstances of mitigation, and the record of any prior violations by the owner.</u></p> <p><u>(9) All witnesses shall testify under oath or affirmation. The oath shall be administered by the hearing examiner. The hearing officer may, when appropriate, request the production of oral or documentary evidence that is reasonably necessary and relevant to conduct a hearing. All proceedings shall be tape-recorded.</u></p> <p><u>(10) The hearing officer shall issue a written determination, holding the City to the clear and convincing evidence standard of proof, which shall be mailed to the owner within seven days after the hearing is completed. The officer shall be empowered to require a disposition of the animal in a manner consistent with the provisions of SMC Chapter 9.25, and shall impose such other sanctions and remedies as set forth in this Chapter.</u></p> <p><u>(11) If an animal is found to be potentially dangerous or dangerous by clear and convincing evidence, the animal shall be so designated on the records of the City Animal Control. Such a designation shall be considered in future determinations involving the animal and/or owner.</u></p> <p><u>(12) The animal owner may appeal any decision by the hearing officer to the King County Superior Court by writ.</u></p>	4-2 2 abstentions
-----	--	--	----------------------

15.	SMC 9.25.083A Owning various dangerous animals prohibited --	A. It is unlawful to own a dangerous animal (other than a licensed guard or attack dog, <u>or as otherwise provided in this Chapter</u>) with knowledge that the animal is dangerous, or with reckless disregard of the fact that the animal is dangerous. <u>Prior to the effective date of any relevant ordinance changes, issuance of a potentially dangerous animal notice alone is insufficient to impute knowledge of dangerousness on the owner.</u>	7-2
16.	SMC 9.25.083 B	B. An animal whose owner is convicted of or pleads guilty to violating this section shall be humanely destroyed. <u>B. A Level 5 Dangerous animal shall be humanely destroyed.</u>	5-0
17.	SMC 9.25.083 C	<u>C. A Level 4 Dangerous animal may be registered as a “dangerous animal” under the provisions of RCW 16.08.080. Seq.</u>	5-3
18.	SMC 9.25.083 D	<u>D. A Level 3 Potentially Dangerous animal shall be muzzled and on a leash whenever off of the property of the owner and outside of a secure enclosure.</u>	8-0
19.	SMC 9.25.083 E	<u>E. Any owner of an animal exhibiting Level 1 through Level 4 behavior may seek a mediation meeting with a hearing officer, as described in 9.25.038. Such meeting shall be attended by the animal owner and the Director of Animal Control. The purpose of this meeting shall be for the animal owner to seek reduction of classification Level following the completion of specific behavioral modification training, as recommended by the hearing officer acting as mediator and agreed to by the Director of Animal Control. If the Director of Animal Control refuses to reduce the behavior level status by accepting the recommendation of the hearing officer acting as mediator, the owner may appeal the decision to the City Hearing Examiner.</u>	5-1
20.	SMC 9.25.083 F	<u>F. The Behavior Level of any animal classified as Level 1 through Level 3 shall automatically be reduced one level following each 18- month period in which the animal has not received any additional citations of potentially-dangerous or dangerous. An owner of Level 4 Dangerous animal who has no additional violations related to dangerousness or potentially dangerous, after a thirty-six-month period from the date of designation as dangerous, may apply to the Director to reduce the designation to Potentially Dangerous Level 3. The Director shall reduce the designation to Level 3 upon proof of the successful completion of at least twelve weeks of behavioral modification training, other similar evidence of training, or other rehabilitative efforts designated to mitigate the risk to public safety. If the animal owner believes that the specific requirements set by the Director are too onerous, the owner may appeal to the Hearing Examiner.</u>	7-1
21.	SMC 9.25.020	<u>Modify definition of “at large” to add “shall not include an animal on another person’s property with that property owner’s permission”.</u>	7-0 1 abstention
22.	SMC 9.25.084 C	C. Fail to confine any female cat or dog that is in estrus ("heat") in a secure enclosure so that the female cat or dog cannot come in contact with a male unless the male is admitted by the owner of the female, <u>with the consent of the owners of both the male and female animals;</u>	9-0
23.	SMC 9.25.085 D Offenses relating to the sale of animals	<u>It is a violation of this chapter to auction off or raffle companion animals as prizes or gifts.</u>	4-2 2 abstentions
24.	SMC 9.25.090 D Detainment and disposal.	D. Notwithstanding any other provision of this chapter, injured or diseased animals, <u>in cases where the owner cannot be located,</u> need not be detained for the holding period, but may be disposed of in a humane manner at any time at the discretion of the Director, <u>following a reasonable attempt to locate the owner of the injured animal. If the owner is identifiable, the Director must contact the owner and give the owner the option of transferring the animal to a veterinarian for immediate treatment.</u>	3-5 on “reasonable attempt to locate owner”
25.	SMC 9.25.092 A Nuisance animals	A. Any animal which, by its actions or condition, presents a clear and present threat to the public peace, health, or safety is a nuisance and may be summarily detained pending correction of the condition, <u>pending an expedited procedure to review the necessity of continued detention,</u> or pending the owner's trial, hearing, appeal or other judicial proceedings for violation of this chapter or any other provision of law.	8-0
26.	SMC 9.25.092 B	<u>B. If an animal is a threat to public peace, health or safety, but the public is not in imminent danger, in lieu of summarily detaining the animal, the Director (may) shall post a notice to abate a nuisance upon any property wherein an animal is kept in violation of the provisions of this chapter. If no response is made to the notice within twenty-four (24) hours, the animal shall be detained at the City Animal Shelter, subject to the requirements in paragraph A above.</u>	8-0
27.	SMC 9.25.092 D	<u>The City of Seattle has the burden of proof in establishing that an animal is a nuisance. The standard of proof shall be by clear and convincing evidence. Proper venue is King County Superior Court in Seattle.</u>	8-0

28.	SMC 9.25.100 E Penalty Clause	E. In addition, the court may order the revocation or denial of any guard or attack dog license and any cat or dog license of or to any person convicted of a crime under this chapter for a period not to exceed one (1) year.	2-2-1
29.	SMC 9.25.100 F	F. Any person whose guard or attack dog ^s licensed is revoked, suspended or denied shall surrender all of his or her said guard or attack dogs to the Director to be disposed of in a humane manner.	4-0 1 abstention
30.	SMC 9.25.100 G	G. Any person whose cat or dog license is revoked, suspended, or denied shall surrender all of his or her cats and dogs to the Director.	Unanimous
31.	SMC 9.25.110 Denial, suspension or revocation of license - Order	The Director shall deny, suspend, or revoke a license for an animal found to be a "dangerous animal," in any jurisdiction, <u>subject to the exception that allows licensing of a Level 4 Dangerous Dog,</u> and may deny, suspend, or revoke a license for a guard or attack animal under Section 9.25.054 upon determining that the applicant or licensee has violated or failed to comply with any provision of this chapter. The denial, suspension, or revocation of a license shall be in writing in the form of an order, and shall include a recital of the authority for the action, a brief and concise statement of facts which constitute the grounds for the denial, and the Director's signature. A copy of the order, including notice of the right to a hearing, shall be mailed to the applicant.	5-0
32.	SMC 9.25.020-023	<u>(Addition of two new Definitions:)</u> <u>“Attack” – Deliberate, aggressive physical contact initiated by the animal.</u>	Attack – 8-0
		<u>“Bite” – An action caused by an animal in which the teeth cause a puncture or laceration, but shall not include solely a bruise or an abrasion.</u>	Bite 8--0
33.	SMC 9.25.023 G	“Severe” injury” means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery. It also means transmittal of an infectious or contagious disease by an animal.	8-0